



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

Agenda

Meeting of January 14, 2004

9:00 a.m., Commission Offices, 242 State Street, Augusta, Maine

ROUTINE BUSINESS

1. Ratification of minutes of November 6, 2003 meeting

NEW BUSINESS

2. Contributions Made by Members of Workers' Compensation Trusts

Workers' Compensation Trusts wish to collect donations from member-businesses, and give the collected funds to a political action committee. The political donations would be kept separate from the money that is deposited into the trusts. Their representative, Bruce Gerrity, asks whether the trusts would be considered PAC's and would be required to file reports with the Ethics Commission.

Penalty Determinations

3. Lisa Carter

Monthly Lobbyist Report for one employer

Due 11/17/03; filed 11/18/03 – 1 day late

Statutory penalty: \$100

Recommendation: \$50 (reduced by half for first late filing)

4. Christine G. Crocker

Annual Lobbyist Report for one employer

Due 12/30/03; filed 1/5/04 – 6 days late

Statutory penalty \$200

Recommendation: \$200 (No reduction for first-time lateness is appropriate, because of late monthly reports filed in January and June 2002. The notice of the deadline for the annual report was mailed on November 14, 2003.)

5. Amendments to Commission Rules

The Commission has received comments on its proposed rule amendments, and the Commission staff has attached a revised set of recommended amendments. Some rule amendments are routine technical, and may be finally adopted by the Commission when it has had adequate time to consider them. Other amendments are major substantive, and

would need to be submitted to the Legislature. The deadline for submitting major substantive rule amendments to the Legislature is February 20, 2004.

6. Policy Question: Filing 48-Hour Reports on the Last Weekend Before the Election

Under provisions in the Election Law and the Commission Rules, large expenditures by candidates, PAC's, political parties and others in the last 11 days before an election must be reported in 48-Hour Reports that are filed within 48 hours of the expenditure, or on the next business day, whichever is later. When the 48-hour deadline falls on a Saturday or a Sunday, the report becomes due on the following Monday.

In their December 11, 2003 comments on the proposed rule amendments, the Maine Citizens for Clean Elections proposed that the weekend before an election would be considered business days for reporting purposes. The goal of the amendment would be to require the filing of 48-Hour Reports during the weekend before the election, in order to process any resulting matching funds payments sooner.

The Commission staff supports this proposal because the staff already is statutorily required to be in the office during the weekend before an election, and the earlier reporting could assist Maine Clean Election Act candidates in obtaining public funds sooner. The Commission staff recommends, however, that the weekend filing requirement be enacted *statutorily* through an amendment to the Commission bill that would shorten the filing requirement from within 48-hours of the expenditure to within 24 hours.

7. Carry-Over Bills from Previous Session

The Legal and Veterans Affairs Committee will be considering two bills that were carried over from the first legislative session. The Commission director has been invited to a work session on the bills, and would appreciate guidance on whether the Commission wishes to take a position on the two bills.

The first bill (L.D. 1027) would require candidates, PAC's and others that send a mass mailing within two weeks of the election to file a copy of the mailing with the Ethics Commission before the mailing. Also, a transcript of automated telephone calls would be required to be filed before the calls are made.

The second bill (L.D. 1339) would amend the definition of the term "expenditure," and appears designed to improve the reporting of payments made by candidates to consultants, who use the funds to make payments directly to vendors.

8. Question from Representative David LeMoine

Representative David LeMoine has a surplus of funds from his 2002 election. He would like to use these funds for his "campaign" for State Treasurer, which is a constitutional position selected by the State Legislature. Surplus funds may be used "by a candidate for a subsequent election." (*See* attached flyer.) The term "candidate" is defined in the Election Law to mean a person who has filed a petition with the Secretary of State under

Sections 335-36 or 354-55 of the Election Law, and has qualified for the ballot by either procedure.

Under a provision in the PAC law, the State Treasurer may not form a PAC or solicit contributions for a PAC. Aware of this provision, the Representative also asks whether a candidate for State Treasurer can raise and spend money “through his or her campaign account” and whether there are limits on who can make contributions and how much can be contributed. His e-mail is attached.

9. Expiration of Terms of Commission Members

The terms of Commission members Andrew Ketterer and David Ott will expire on April 16, 2004. The 121st Legislature may adjourn before that date, and would be unable to reappoint the members or appoint successors.

10. Use of Surplus Funds

Candidates from previous elections with a surplus or debt of \$50 or more must file campaign finance reports with the Commission every January and July 15 until the surplus or debt has been disposed of. Title 21-A M.R.S.A. Section 1017(8) sets forth the nine categories of expenditures that are permissible uses of these surplus funds. Some of the reports filed for the January 15, 2004 deadline include expenditures (purchases of equipment from Sam’s Club, VISA payments, tuition expenses) that do not obviously fit into the nine categories, although they could be viewed as legislative expenses. The Commission staff is unsure of its former director’s past practice, and requests guidance whether the staff should request explanations from former candidates on questionable purchases or, at least, attempt to educate them by letter about the restrictions on uses of surplus funds.

11. Move of Commission Offices

In the next month, the Commission’s office will move into a new space within the Public Utilities Commission Building. It is the space currently occupied by the Maine Labor Relations Board.

12. Other

Miscellaneous as needed.

EXECUTIVE SESSION

If necessary.

ADJOURNMENT